

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

KIMBERLY HAWKES,

Plaintiff,

v.

CHATTANOOGA CHOO CHOO d/b/a
CHOO CHOO PARTNERS, L.P.,

Defendant.

No. 1:20-cv-127-SKL

ORDER

Before the Court is Defendant's motion to compel Plaintiff's responses to Defendant's initial Interrogatories and Requests for Production of Documents [Doc. 19]. Defendant asks the Court to compel Plaintiff to provide complete responses to the discovery requests. Plaintiff has not responded to the motion to compel, and the time for doing so has passed. E.D. Tenn. L.R. 7.1(a). The Court deems Plaintiff's lack of response to be a waiver of any opposition to the relief requested in the motion. E.D. Tenn. L.R. 7.2. However, Defendant did not recite verbatim, or attach a copy of, its discovery requests as required by applicable local rules. E.D. Tenn. L.R. 37.2. Moreover, the motion does not contain the required certification regarding good faith conferral, *see* Fed. R. Civ. P. 37(a)(1), although it attaches a letter from Defendant's counsel to Plaintiff's counsel regarding the delinquent discovery responses. While this single letter falls far short of the Court's requirements for *good faith* conferral efforts, the Court will consider the motion given the lack of opposition.

Federal Rule of Civil Procedure 37(a)(5) provides that if a motion to compel is granted, "the court must, after giving an opportunity to be heard, require the party or deponent whose

conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees." The Court must not award expenses if, *inter alia*, the "circumstances make an award of expenses unjust." *Id.* Defendant has not requested costs and fees incurred in filing its motion to compel and, given the lack of evidence of more rigorous conferral attempts, such as a single phone call, the Court declines to award fees at this time.

For good cause shown and without opposition, Defendant's motion to compel [Doc. 19] is **GRANTED** and Plaintiff **SHALL** respond to Defendant's Interrogatories and Requests for Production within **FOURTEEN DAYS** of entry of this Order.

Plaintiff is **FOREWARNED** that any failure to comply with this Order or her discovery obligations could result in sanctions, up to and including the dismissal of this action.

SO ORDERED.

ENTER:

s/ Susan K. Lee

SUSAN K. LEE
UNITED STATES MAGISTRATE JUDGE